>16.35 hrs

Title: Further consideration of the Constitution (Amendment) Bill, 1999 (Omission of Article 44, etc.) moved by Shri Yogi Adityanath on 19 July, 2002 (Continued- Not concluded.)

MR. CHAIRMAN : Now, the House will take up Item No.30. Shri G.M. Banatwalla to continue as he was on his legs.

Shri G.M. Banatwalla - Not present.

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): Mr. Chairman, Sir, this Bill is a part of the Directive Principles of State Policy. Except a new word `secure', rest of the things are all part of the article 44 of the Constitution of India. No doubt, the Directive Principles of State Policy is a solemn promise given by the Constituent Assembly and the forefathers of our nation had got a very great dream of India as a secular country. They were having a feeling that there will be a nation which would have no division among the human being on the basis of religion. They dreamt that there will be a day where everything will be controlled by the rule of the law and especially every people will have a single religion, namely, no religion, which is secularism. But we cannot attribute any motive to a Member when he comes up with a Private Member's Bill. But at the same time, we feel that this time is not good for bringing this type of amendment to the Constitution of India. No doubt, there were about four amendments to the Directive Principles of State Policy. All the four amendments were brought by Shrimati Indira Gandhi for bringing new force into the Directive Principles of State Policy and for enabling the Government to bring forth any law in the name of the Directive Principles of State Policy. That was a revolutionary step taken by Shrimati Indira Gandhi as the Prime Minister of India. It enabled us to make a lot of new legislation to have better participation of the people in the day-to-day life. For example, there was an amendment to article 38 − State to secure a social order for the promotion and welfare of the people. In the same way, article 39A provides equal justice and free legal aid that has brought a new phase in the legal system itself in India. In the same way, article 43A provides participation of workers in the management of industries. Article 48A provides for protection and improvement of environment and safeguard of forests and wildlife. These are some of the new initiatives made during 1976 and subsequently also. But the forefathers of the Constitution had brought forward the article 44 with a great dream that there will be a nation where there will be no division on the basis of religion or caste or any such thing.

Since our Independence, we have evolved a new system for having equality as per the law as well as social structure. But are we in a position to bring a Uniform Civil Code now? Are we in a position to prepare people mentally to have Uniform Civil Code? Pandit Jawaharlal Nehru, as the first Prime Minister of India, brought forward the Hindu Marriages Act and the Hindu Succession Act. So many other revolutionary steps were taken. But at that time itself, he was opposed by many people. People asked him as to why he was bringing such a novel and progressive thinking in the Hindu religion. He made the Hindu society to think in a modern way and the joint families were created. That is the strength of India. Nowhere in the world, there is a joint family system. This is the strength of our nation. We have created this strength from ancient and *Vedic* period.

We have faced so many problems during these fifty years. There have been economic problems, problems at the border, there have been wars, droughts, floods, etc. At the same time, our society did not change at all because of these problems. There have been linguistic problems and internal fights in the social structure. There have been religious fights also. Even then our structure remained in tact. India has been strengthened everyday and every minute of its existence as a nation.

Our social structure right from the village level largely belongs to the middle class. This class is having the largest number of people and it is now coming out of backwardness. As Lenin once said, the middle class segment should be abolished because there can be only two classes; one is the working class and the other is the elite. Now we are trying to go to the elite group also. At the same time, we are afraid that we may fall down to backwardness. We are living in an insecured society. The Indian society is now passing through a very strange situation where the middle class is swelling in its number everyday.

Even the former President of the United States of America in his address to the Indian Parliament in our own Central Hall said that the middle class in the Indian society has to be taken into consideration because they are the people who are very much threatened by the new structural changes. They are ready to go up the ladder. But they are also afraid of the depth from which they have come up. Therefore, this structure is changing itself. It is in this structure that you are witnessing today inter-caste marriages, inter-religious marriages, inter-State marriages and international marriages also. When this becomes universal, that is the time when you can bring the Uniform Civil Code. For this to happen, there should be no religion, there should be no caste, no division of State, no division of language, no division of any sovereign State. When the society reaches that level, that will be the time when we need the Uniform Civil Code. Till then we are bound by certain differences.

Now we have religious feelings here. Many people are roused and frustrated by various democratic set up. We are

afraid of them. People are going in large numbers, in crores and crores, to temples, mosques and churches. It is because they feel that the structure which has been built up in India as a democratic set up is not helping them and is not answering their call. It is not giving them social security, employment, proper education and a better living. That situation can be overturned by the Government of the day only.

These are the reasons why this social structure is changing itself. People are migrating to various countries and people are also coming back from various countries. Today, this structure is identified with the variety of people who have got no religion, no sectarian feeling and no language. They are a new people who are evolving as a new Bharat.

There should come a day when all the people in India would themselves ask for the Uniform Civil Code. There will be larger number of such people at that time. There will not be any division in the name of religion and there will be no fanaticism. There will not be a particular limited place, only where you will have to pray. You can pray anywhere. You are the *atman* as the *vedic* scriptures suggest. God is one. Universe is one. Universe is a part of the human being and the human being is a part of the universe. That is what Lord Krishna says in *Bhagavad-Gita*.

When that day comes, the Uniform Civil Code can be brought up. Till then why should we divide people by telling them that they are going to have a Uniform Civil Code? It means you are making certain groups of people − who may be Muslims, Christians or Buddhists − think that they are not secure in this nation. There is something that they are afraid of losing. There is no uniform set up now. When there is no uniform set up, when there is no uniform law to be implemented, what is the purpose of bringing this law?

A law has to be followed, a law has to be acted upon and a law has to be executed. Only then, it will have the force. Otherwise, it will be a part of the law of dead books and it will not have life or dynamism. Therefore, I request, at this juncture, Shri Aditya Nath that bringing forward this constitutional amendment is not the correct way and correct timing. I do not want to comment upon individuals but, at the same time, the person who is bringing in this amendment should have a feeling that we should not divide the nation again. Already some injuries and wounds have been caused in certain areas of our nation. People are having a feeling that there should be one religion. People are asking where our forefathers were born, what is our place of birth and whether our blood is the Indian blood or not. How can we find it out?

India is a union of many States. It is not an individual State. It is a nation where plenty of cultures, plenty of religions and languages have come up. It is not a single nation. It is a union of States. The Indian National Congress had created history when it united different people, different areas of people, people of different religions and languages into one nation, that is, Bharat or India. We have done it. By bringing this type of an amendment, kindly do not hurt the feelings of the people and take them to the pre-Independence period.

Before our freedom, there were divisions of nations, there were plenty of kings in India and there were in-fights. All those things have been forgotten now. We now feel that Indians are having their own religion, their own praying methods, succession methods of their own property, whether it is ancestral property or self-acquired property. We are safe with our own law and our own system of justice.

Therefore, I request that when this constitutional amendment is brought forth at this hour, the situation should be viewed in a proper way. We are not wearing any colour glass to look at other people. But are we in a position to create certain steps when the Constitution of India is amended like this? There is no need for this amendment. We can bring forth laws under article 44 of the Constitution of India. But is it necessary to bring forth even that law of uniform civil code? We are going towards globalisation. There is no demarcation of a sovereign State even now. We have lost our sovereignty in trade and commerce and even in citizenship. Any person can go anywhere in the world. They can do trade and commerce, produce new materials, sell them, do service, bring forth money anywhere, purchase property and settle there, marry and create a family there, live and die there. That is the society in which we are living now. In Tamil, there is a saying like this: *"Yaadum oore, yaavarum kezhir*". It means that every village is our own village and everybody is our own brother. In the same way, we are living in a society where we do not feel whether we are a Hindu or a Christian, whether we are bound by a uniform civil code or by a Muslim law or whether we are bound by the Hindu Succession Act or any other Act.

At the same time, we are living in the world of credit cards. The society is moving on the expenditure side. We are not stable. Assets are not created. Assets are enjoyed. Society is going back to the level of Western countries. The Hindu system of living in India is for savings. We used to have savings of property for the old age. But now the society is saying that you can deposit money and can enjoy life at old age. At the same time, you need not bequeath it to anybody else. This is the society in which we are living now.

Therefore, I request the hon. Member not to press this constitutional amendment because it is part of the Constitution and article 44 of the Constitution can be followed by legislative system and bringing forth new laws.

We can have uniform civil code when majority of the people forget about religion, when they forget about the divisions amongst themselves, and when they feel that they are one in India. Till then there is no need to have it. It is because it will only open the injuries or the wounds which have already been healed.

With these words, I request the hon. Member to withdraw this Bill because we should not hurt the future generation.

SHRI KHARABELA SWAIN (BALASORE): I rise to support the Motion moved by Yogi Adityanath. I was listening with rapt attention to what Shri Sudarsana Natchiappan was saying. He agreed that the proposal that has been made through this Bill does exist in the provisions of the Constitution. But he said that it is not the right time to adopt it. Who had initiated and introduced the Constitution in India? Was it not the Congress Party, which had done that? It was a political movement once upon a time. It was a movement to free India from the bondage of British rule. I am very surprised that the proposals of the Congress Party, which had introduced the Constitution to the people of India, are being opposed by persons of the same Party.

He said that India is a secular country. Who denies that? He said that there is a rule of law. I agree with that. Everybody agrees with that. But I am asking him whether we are having rule of law or rule of laws. Should we have rule of law or rule of laws? There is a separate law for Muslims; another law for Hindus and another law for some other religion or community. If you say that it is a secular country, why not a single law for all? Go to the West. Tell me which country in the West has so many types of laws? Do they not have Muslims in the United States of America? Do they not have Muslims in Great Britain? There are three million Turks, that is, Muslims, in Germany. Five million Algerians, that is, Muslims, are there in France.

All the countries have minority population. The Europe and the America have sizeable Muslim population. Do they have several types of laws in their country? Why have the Muslims in those countries not demanded a separate law for them there? So, if nobody is demanding such a law in those countries, then why in India should we have so many laws? Why do you say that the time is not appropriate? I do not know why. Probably, Shri Natchiappan was carried away by emotion when he said that India is not a single nation. He said that it is a combination of nations. Their Deputy Leader, Shri Shivraj Patil is present here. Does he believe in what Shri Nachiappan said that India is not a nation but it is a combination of nations? Does he believe that? If it is so, then do they believe in the two-nation theory?

Do they believe that India is a secular country? Do they believe that the Muslims constitute a separate nation and the Hindus constitute a separate nation? Did Mahatma Gandhi believe in this? Why did he resort to fasting the day when India was divided into two? Why did Mahatma Gandhi not support the division of this country? Shri Natchiappan, how can you say that India is not a single nation?

If we say that nationality pertains to a religion, then why Pakistan and Afghanistan are two separate countries? They are the Islamic countries. They should combine together to become one country. Why is Afghanistan a separate country? Why had Iran and Iraq fought a war for eight years? Why did Iraq invade Kuwait? Why is Kuwait a separate country? Why is Saudi Arabia a separate country? There are so many countries in Europe which are all Christian . Why did England have a hundred-year war with France? Why did Napoleon of France or Hitler of Germany attack Russia when they were all Europeans, when they are all Christian countries? If you say that all the persons of all the religions form a separate country, then, will Nepal be a Hindu country amalgamated with India? Will they agree to that proposition?

Sir, nationality does not pertain to religion. It is an identity. It is a geographical identity. Culture is a totally separate thing. There are so many Muslim ladies in West Bengal who put on *sindhur,* the vermilion on their forehead. I have seen that there are so many Christian ladies who put the vermilion. The very perception that the marriage is सात जन्म का बंधन is a peculiar Hindu concept which has been accepted by everybody, by the Muslims, Christians etc.

Now, I am asking this question. In any religion, is there any distinct mark between a married woman and an unmarried lady? The distinct mark is prevalent only among the Hindus. How to distinguish between a married woman and an unmarried lady? It is not there in the case of others. But in India this practice has been accepted by the non-Hindus also because we belong to the same culture. So, I wish to say that this very notion that India is not a single nation is not correct. I very strongly oppose that theory. The Congress Party has opposed it. They have not believed in the two-nation theory. But I am very surprised today when the Congress Party people say that India is not a single nation. ...(*Interruptions*)

SHRI E.M. SUDARSANA NATCHIAPPAN : Kindly do not create a new notion that the Congress Party has got the two-nation theory. That is your theory. That is the theory of the BJP. I never mentioned any party's name. I want to have a civilised way of talking here. I have not indicated any party. Now, you want to bring new theories to my talking. I told that India is a Union of States; the States were having plenty of Kingdoms and those Kingdoms were having plenty of cultures, religions and linguistic differences. I further told that all these were united by the Congress Party and brought into being a new nation, that is, the Union of States, that is, *Bharat*, that is, India. I

have never told that there is a difference between the people. Please do not put such words into my mouth. I want to give this reply to you....(*Interruptions*)

SHRI KHARABELA SWAIN : I am not yielding.

Mr. Chairman, Sir, I would request you to go through the speech made by Shri Natchiappan. You will see whether what I say is correct or not. He may now correct it because he has understood that he has committed a mistake. You could just go through it.

My point is this. I mean to say that you take the examples of the Christians. Some months back, a Bill was passed in this very House. Why was that Bill passed which was about the Christian Marriage?

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It is because there was some sort of discrimination in the Christian community. So, it was Christians who demanded that they should also have a common law like others. Hence, the old Christian law had to be abolished and a new common law was passed in this House.

Let us take the example of Parsis. When India became independent, all the Parsis were asked as to whether they want to have a separate law for themselves. They said that they did not want to have a separate law. The Christians also did not want a separate law. They all felt that there is some advantage in having a common law. But why does only one community want to have a separate law for themselves? Moreover, it is not the question of the whole community. It is only some members of that community who want to have a separate law so as to have control over the community. If you ask women from the Muslim community whether they want to continue with the practice where the husband says '*talaq, talaq, talaq'* and asks the wife to get out his house, they will say that they do not want it. Which woman of that community will agree to this kind of practice? So, women of Muslim community also do not want this kind of practice under their law.

Sir, every society, every community has got its own messians, the social reformers who have reformed their community. Shri Sudarsana Nachiappan has said that it is only Hindus who are having inter-caste, inter-religious and international marriages. I agree with him. Once upon a time, we had the practice of child marriage, Sati burning also, but I proudly say that it is only Hindus like Swami Vivekanand, Narayana Guru, Mahatma Pule, Ram Mohan Ray and Dayanand Saraswati who had undertaken social reforms and reformed the Hindu society. It is only Hindus who removed all the ills which they had in their own community and now also we are in the process of changing. Nobody is attached to any stigma or orthodoxy in the Hindu community. We do not agree with what is written in *Manu Smriti*. Maybe, the caste system was good 1,000 or 2,000 years back, but in the present day context, we totally disagree with it. No sensible Hindu will say that the caste system is good. So, why should somebody not come forward to change the orthodox practices in the Muslim community? Let the Muslims themselves come forward to do it. Let wise people from the Muslim community introduce the required changes in their own society. Why should a Hindu bring out a Bill for that purpose?

Sir, in countries like Turkey nobody is allowed to marry four times. Even in a very religious country like Pakistan, a person cannot marry four times unless he takes the permission of the Government. So, except India, in no other Muslim country in the world this system is in vogue. Pakistan is the only country in the world which has been formed on the basis of religion. There is no second country in the world which is having religion as its base. But still in Pakistan, a person cannot marry four times unless he takes the permission of the Government. Let me be corrected if I am wrong.

So, I am happy that such a Bill has been introduced in this House. There is absolutely nothing in this Bill which goes against any community. There is absolutely nothing in this Bill by which one can say that we are dividing this country on the basis of religion.

In India, the system of social change has been undergoing since ages. This Bill has also been brought forward specifically for that purpose. Nobody should treat it as an instrument to divide this country. So, I would appeal to everybody and also the people belonging to all the parties to rise above political considerations. I would appeal even to hon. Members of the Muslim community to come forward themselves and release their womenfolk from this very discrimination of allowing a man just marrying four times and not taking care of the women whom he marries and from whom he begets children.

With these words, I support it and conclude my speech.

SHRI SHIVRAJ V. PATIL (LATUR): Sir, I am participating in this debate because the topic is very important. I am aware of the fact that this Resolution has been moved by a Private Member, that the attendance in the House is very slim and that it is not likely to appear in the media also. Yet, because the topic is important, because there is a lot of misunderstanding about article 44 of the Constitution and because this article has been politically used on

occasions, I think, I should avail of the opportunity to express my views on this topic. So, I am before you, Sir, today.

Article 44 is a part of the Directive Principles. It means, it is non-justiceable. It cannot be used to request the court to see that the intention expressed in article 44 should be enacted and should be implemented. Article 44, is a part of the Directive Principles. It says:

> "The State shall endeavour to secureâ€¦"

The words are: 'endeavour to secure'. It is a very carefully drafted article. The Government and the society have to 'endeavour to secureâ€¦'. They have to attempt. They have to put in efforts to secure. They should not use force. Neither the Government nor the Parliament nor the people outside should force this view on any part or any section of the society. The article is very carefully worded, as I have said before. It says:

> "The State shall endeavour to secure for the citizens a uniform civil codeâ€¦"

People have misinterpreted 'uniform civil code'. They have interpreted it to mean 'uniform personal law'. There is a difference between 'civil code' and 'personal law' A personal law may be a part of the civil code. But the civil code does not mean the personal law alone . Is there no uniformity in the laws applicable to all sections of the society in India today? We have the Law of Contracts. Is it applicable differently to one section of the society and any other section of the society? Is it applicable in one way to Hindus and in a different way to Christians and in a different way to Muslims? There is a Civil Procedure Code for the entire country as such. All the civil matters are taken to the court by using the Civil Procedure Code. And the Civil Procedure Code is uniformly applicable to all sections of the society.

Indian Penal code is a law, which penalises the citizens for having committed offences in India and all citizens of India are penalised if they commit offences under the Indian Penal Code without any distinction. The Law of Evidence makes no distinction, no difference between one person and another person, between one section of the society and another section of the society. This has to be clearly understood.

The framers of the Constitution were very wise people. They have not said that there shall be a uniform personal law or Uniform Marriage Law or Uniform Law of Inheritance or Uniform Law of Adoption. They have not said that. They have said, Uniform Civil code and there is a Uniform Civil Code in the country today. Let us understand this fact. Let us distinguish the meaning of Personal Law and the Civil Code. The Personal Law may be a part of the Civil Code and yet it is not the Civil Code. The Civil Code is bigger than the Personal Law. This has to be very clearly understood.

There are different laws applicable to different sections of the society as far as marriages are concerned. In some cases Law of Inheritance is different, in some cases the Law of Adoption is applicable to some sections of the society and it is not applicable to another section of the society. There were differences in Hindu Law. Mitakshra and Darbhanga other types of Customary laws were there in the country and we tried to have the Sharda Bill passed and one kind of law applicable to all the Hindus in the country.

It was difficult. It was so difficult that Babasaheb Ambedkar, who had moved the Bill, felt disgusted and left the Government. He left out the party also. Who objected to that? It is the Hindus who objected to it. It is the Hindus who objected to the proposed Law of Inheritance, not all, a few Hindus, and influential Hindus at that. They objected to the proposed Hindu Marriage Act, they objected to the proposed Law of Inheritance. They did not object so much to the Law of Adoption.

What was objectionable? The concept of divorce in Hindu Law was most objectionable. They said, 'once married, they should live united and there should be no divorce between the husband and the wife.' This is a concept, which is accepted in India. This is a concept, which is accepted in Christian community, this is a concept, which is accepted in Muslim community also. But in Christian community, they recognise that at times it becomes very difficult for husband and wife to live together and they should be allowed to divorce. They should be allowed to separate and divorce. In Muslim community, the concept of divorce is there, but they too think that once married, they should live together. But when it becomes necessary for them to separate, they should be allowed to separate. The Christian Law allows the divorce to take place more easily than the Hindu Law: and the Muslim Law allows the divorce to take place little more easily than the Christian Law. This is the difference.

What are we going to do with this concept? That is the most important question.

सभापति महोदय : इस विधेयक पर जो समय निर्धारित था, उसके अनुसार विधेयक का समय पूरा हो रहा है। मैं सदन से अनुमति चाहूंगा कि एक घंटा और बढ़ा दिया जाए। अगर सदन की अनुमति हो तो इस पर एक घंटे का समय और बढ़ा दिया जाए, सदन इससे सहमत है।

कुछ माननीय सदस्य : जी हां।

SHRI SHIVRAJ V. PATIL : So, Muslim law of divorce is such that it is easy to get the divorce. Now, the Muslim law of marriage is misinterpreted by some people and it is attacked many times. The Muslim law of divorce is an advancement on the law of marriage, which is used by the Christians and the Christian law of marriage is a sort of improvement on the Hindu law of marriage in India. This has to be very clearly understood.

Now, under the Muslim law, once husband and wife separate, maintenance is available to the wife, which is not available to the Hindu wife when she separates from her husband and she has to move the court for getting the maintenance. Are we going to make a law in which it becomes necessary for the wife to go to the court to get the maintenance if she is separated from her husband?

Sir, one of the most important things under the Muslim law is − they have been saying - that a Muslim can marry four times. Now, this is something which has been misinterpreted. Where are the enough number of girls to be married? Where are the girls to be married? The number of males and the number of females in India are nearly equal. If one man marries four times, there will be three persons who will remain unmarried. Politically this issue has been used in our country. They are saying that as the Muslims marry four times the population of Muslims in India is increasing. This is a fallacy. This is not correct. This is wrong. There is no enough number of girls who can allow the men to marry more than once, four times. This is not possible, and even the Muslim law does not allow this.

The Muslim law is very advanced. The Muslim law of marriage is very advanced. There is a marriage called Mutha marriage. If a man and woman come together and live together for three months, they are treated as husband and wife. And if the child is born out of this union of theirs, that child is treated as the child of the man who lived with her. May I ask you, will this kind of provision be accepted by Hindus? But this is most scientific, this is most just provision in the Muslim law. If a man and woman are coming together and a child is born, that child should get all the protection that it needed, and that protection is given by the Muslim law but it is not given by the Hindu law, it is not given by the Christian law also.

If you want to have a code, which is equally applicable to all sections of the society, is it possible for the Hindu community to accept a provision of this kind in the common civil code? If anybody is trying to have a uniform code of personal law, let him attempt, let him prepare a model code, let it be presented to the people, let him get that draft model code accepted by the people, and then we will see. The Hindu law is not advanced. It is the most ancient law. Some changes have been made and yet it remains ancient. The Christian law is more modern. It is more advanced. The Muslim law is still more advanced and still more modern. The ancient Hindu law was made thousands of years back. The Christian law was made only 2,000 years back and the Muslim law was made 1400 years back. Why should we not apply our mind to this aspect also?

Take for instance the law of inheritance. What kind of law of succession that we have in the country is applicable to the Hindus? The Hindu Succession Act has certainly given an authority to women to own and possess the property. Before the British came, women could not even possess the property, they had no right to possess the property but the British gave to women the right to possess the property.

The Hindu Succession Act has introduced right to own the property. Many times it is said that both man and woman are treated equally. It is not correct. The daughter and the son are not treated on par with each other. If a family has 100 acres of land and that family has a mother, a son and a daughter, that property will be divided between the son and the father. The son gets 50 acres. Fifty acres of land is again divided among the mother, son and the daughter. The daughter gets hardly 15 or 16 acres of land. The son gets about 66 acres of land. This is not equality. But I can understand if this thing applies to the immovable property and the landed property. But why should it apply to the bank balance? Why should it apply to the movable property? This is not equality. This is certainly inequality. The situation today in India is such that no daughter claims her share in the property very easily. But the daughters are not going to the court asking for their share in the property. They say, we do not want it. All right, if they do not want it, let them not go to the court. We are not instigating them to go to the court. But this is the law of succession and inheritance that we have.

What kind of Muslim law of inheritance is there? It is most scientific. It gives to women right to own and right to possess the property in a very scientific manner. Why should these aspects be not considered while advocating personal law applicable to all in the country? Why is it necessary to have one personal law applicable to the country? Even in the Hindu Marriage Act, certain rituals are followed to see that the marriage is solemnised. But it also provides that the customary way of marriage is accepted. There also, they have given an opportunity to those who want to solemnise their marriages in the customary way. *Saptapathi* is not necessary in all the marriages. But if the marriage is taking place in a manner, which is in accordance with the customs followed by them, that marriage is also supposed to have been solemnised properly.

Why did you have this kind of distinction? You have this kind of distinction because things have developed through

the ages and they have their own sanctity and people are attached to them. That is why, this fact is recognised even in the Hindu Marriage Act. In the present Hindu Marriage Act, this is recognised. Then, why do you not recognise the marriages solemnised by others in other manner or where different kind of laws are applicable?

If Muslims are living in America and England, they are not guided by the Christian law of marriages. Please do not misunderstand that. They are governed by their own laws of marriage. The British Government is not compelling them to solemnise their marriage by following the Christian rituals. Let us not commit mistake on this. They may say, register your marriage. That is a different thing. But they are not saying, you solemnise the marriage and follow the law of marriage in the particular manner. They are also not compelling the Muslim community there in America or in England to follow the principles of inheritance followed by others in that society. They allow the families to inherit their property in their own manner. Let there not be any misunderstanding about it.

This article has been very carefully drafted. I have already said it. It says, 'endeavour to secure'. It does not say 'force them to accept'. The Government should not force, and rightly, the Government is not forcing. The previous Governments also did not force. But we should not create a situation in which a section of the society feels that there are people in the society who are trying to impose their laws on them.

If the Parsis want their laws of marriage to be changed, if they come forth and ask for that, let us change it. If the Christians want their laws of marriage to be changed, let us change it. If the Muslims want a change, let us change the Muslim law of marriage. No one has a right to say, 'You should solemnise your marriage in this fashion. You divide your property between your children in this fashion or in this proportion.' That kind of a right is not given to anybody.

Today, if we have to keep our country united, as Shri E.M. Sudarsana Natchiappan said, we have to give some scope for diversity also. For unity, diversity is essential. If you want to create unity through uniformity, you would never get unity through uniformity because human beings are not the same, their aspirations are not the same, and the culture in which they are growing is not the same. Nature also at least outwardly has not made everything identical. All human beings sitting here are different in their features. They may be the same and there might be unity internally but there is diversity apparently. Let us understand the importance of diversity and plurality. If you do not understand the importance of plurality and want everybody to follow one track, one method, one principle, one scheme and one law, it would be difficult to control them from rebelling against this kind of a forceful action or this kind of a coercive action, which cannot be called persuasive or advisory.

That is why, there has to be a clear understanding as to why Article 44 was included in the Chapter on Directive Principles. There has to be a clear understanding of the meaning of the words very carefully chosen and included here: 'endeavour to secure a uniform civil code'. This has to be very clearly understood. I think, it is necessary for a country like ours where a big section of the society is following a different kind of law of marriages and inheritance and there are different cultural aspects that have not only to be accepted but to be respected also. If you do not respect them but simply accept them and even in some cases do not accept them but try to force your own point of view on others, even if your point of view is not correct, it is not going to help that section of the society, nor the unity of the country, nor all of us. That is exactly what I wanted to say.

I am thankful to you for giving me the time.

SHRI KHARABELA SWAIN : Sir, I have one question for you. If in the United States of America a Muslim woman approaches the court and says that she has been deprived of some property, under what law would the court judge her case?

SHRI SHIVRAJ V. PATIL : That is exactly what I told you. If you are talking about the Civil Procedure Code and things like that, it is different but if a woman were to go to the court and say, 'I have a share in my father's property', or, 'I have a share in my husband's property', the Muslim law would be applicable.

SHRI KHARABELA SWAIN : I do not think so. They have a single rule for all their citizens and she would be guided only by that.

SHRI SHIVRAJ V. PATIL : You have a right to think differently.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, at the outset, I request hon. Member Yogi Aditya Nath to withdraw the Resolution. I am constrained to say that moving of this Resolution at this stage is not in the best interests of our country.

We want a unified India and we want unity in every way. As pointed out eloquently by my friend Shri Shivraj V. Patil, we are looking for unity in diversity. The essence of parliamentary democracy is pluralism. We cannot have parliamentary democracy when we follow everything in uniformity. There is nothing uniform in parliamentary democracy.

The basis of parliamentary democracy is tolerance. Tolerance is the essence of parliamentary democracy. With this background, the founding fathers of our Constitutions framed the Constitution with a definite purpose.

Now, when they had to take a decision regarding the individual rights, they had in mind that individual rights, which have to be enshrined and which have to be judicially implemented, should be included in the fundamental rights of the Constitution. Those rights which could not be enforced through the court of law, were included in part-IV of the Directive Principles of State Policy. There are certain fundamental rights which have to be implemented, but those fundamental rights could not be implemented at the time when the Constitution was framed. There is a distinction between the judicial fundamental rights and non-judicial fundamental rights.

Now, India was a colonial country and we got freedom. I will say that every citizen is entitled to get employment. That is a fundamental right. Every citizen belonging to any religion, caste or sex is entitled to employment in a free India. Would it be possible for the framers of the Constitution to provide that right as a fundamental right? It was not possible. Taking into consideration that India was a colonial country with no development, everything was exploited and our country was the poorest country at that time. Historians have recorded that India was the richest country in the 16th or 17th Century. When we became independent, we were a poor State, a starving State with millions of illiterate people. So, the founding fathers have found that though it is a fundamental right, it could not be termed as judicial fundamental right. So, they included it in the Directive Principles of State Policy. The right to work is a Directive Principle of State Policy, which right the State shall endeavour to give to all people. It was included in the Directive Principles of State Policy. Why was it so? It was included in the Directive Principles of State Policy taking into consideration the practical situations. If you give priority to the principles enshrined in the Directive Principles, I would say the right to work should be given the first priority in the Constitution. It should be made the fundamental right. Personal rights should come afterwards. I would have supported the resolution if my friend has brought a resolution or a constitutional amendment to the effect that everybody is entitled to get work in India. Would he bring it? I can understand if such a resolution or such an amendment is moved. That is the top priority.

Millions and millions of youth are unemployed in our country. We could not provide any employment to them even after the implementation of the Nine Five-Year Plans. Crores of educated and un-educated are unemployed. They get a right to be citizens of this country. The citizen's right is right to work. That is not a fundamental right. That has not been included in the fundamental right. We have the freedom of speech; we have the freedom of association and we have the freedom that everybody is equal before law. If anybody is arrested, he must be brought before a court of law within 24 hours. These are the things, which could be enforced, but not the right to get work in a court of law. So, the priority should go to the right to work. He has not mentioned about it.

Now, he has brought an amendment with an ulterior motive that I may be permitted to submit.

This is not an idealistic approach. As a matter of fact, I would have supported it if it was brought with an idealistic view. But it is not like that.

Even in the Statement of Objects and Reasons my friend says : "Our country is not a theocratic State". He says that our country is not a theocratic State. Who says this? Hon. Member Yogi Aditya Nath says it. Our country is a secular State. This is not my statement. On 18th November, when the Gujarat situation was discussed, hon. Deputy Prime Minister Shri L.K. Advani had said that India is a secular State. That has created a furore among you. It has created widespread resentment throughout the country and from no less than a person than the Shiv Sena leader Shri Bal Thackeray. He found fault with Shri L.K. Advani for having made that statement. After all, our Deputy Prime Minister is holding a legal position. In our Constitution it is enshrined that ours is a secular and democratic State. He has only stated that. But when he has stated that, there was hue and cry from every part and every corner. The Bajrang Dal rose in revolt; the RSS front rose in revolt. The Shiv Sena supreme commander had written in his own paper that Shri Advani is a pseudo-secularist. Shri Advani has simply stated that our India is a secular State with pluralistic society. That is what he has said. He could not state otherwise so long as he is the Deputy Prime Minister. Could he say that India is a Hindu State? He cannot say that. Even stating the real fact as per the provisions in the Constitution has created a big furore among the people.

It is not only that. Our founding fathers found it difficult to implement the common civil code at that time. Do you think that the situation has changed? Is there any change in the situation? We know that the Babri Masjid was destroyed, creating an ill-feeling among the minority communities. We all know it. Even our Deputy Prime Minister Shri L.K. Advani regretted over the incident, for having demolished the mosque. He himself regretted it. That is the situation available in the country.

It is not only that. Even now we are thinking of the Godhra incident. Even our hon. Prime Minister has categorically deplored that incident and he said that it should not be made an election issue in Gujarat. Godhra incident should not be an election issue. That was the statement of our hon. Prime Minister. Please do not make it an election issue. That is the situation available in the country. Is it right for us to amend the constitution and do away with

Article 44? Is the time ripe? What is the situation available in the country?

We want a unified India. We do not want any further division of India. We want an India where everybody will live together. The Muslims, the Hindus and the Sikhs − everybody is equal before law. Everybody can have his own personal law. What is the difficulty? I have my own experience. I am a lawyer for the past fifty years − half a century. I have conducted so many personal law cases. No difficulty was felt. The Muslim divorce law was administered through the Civil Procedure Code. The Hindu divorce law was administered through the Civil Procedure Code. It is the same basic law. The Civil Procedure Code is applicable to the Hindu Succession Act and it is equally applicable to the Muslim law as well. The law of inheritance is equally applicable to the Hindus, the Muslims and the Sikhs as well. There is no difference.

The basic question that is felt is there is the Criminal Procedure Code and we have the I.P.C. You can see that even Muslim women get their maintenance through Section 125 of the Criminal Procedure Code. They file a petition before the Magistrate and the Magistrate will order maintenance for the wife under Section 125 of the Criminal Procedure Code.

It is a uniform law. But we have certain beliefs. The Hindus once used to believe that when the husband dies, the wife should be burnt along with the husband. But that is now not in practice. But it was a part of an ancient Hindu law. Could it be implemented now? No, it is not possible. There are many such laws that are outdated and cannot be sustained in a civilized society.

I would like to share with you all an interesting story here. In my State some Muslim families in a particular village follow the Hindu law of inheritance, namely, *Marumakatayam*, whereby the sister's son inherits the family property. It is part of a Hindu law. So, laws of inheritance, laws of succession and laws of marriages are merely personal laws. Why should we bring in those laws here? Is it possible to bring certain aspects of Hindu laws, certain aspects of Muslim laws and certain aspects of Christian laws together? We already have created a lot of apprehension and tension amongst people by demolishing so many things that I need not repeat.

We all are Indians. We stand for a unified India. Please do not try to create a sensation by making further divisions in the society. The aim and intention of bringing this Bill is to enforce the beliefs of the Hindu society on the minorities in the name of personal law. But that is not possible. It has been pointed out by my learned friend, Shri Shivraj Patil that in the United States of America and in the United Kingdom, the Christians are allowed to follow their law in the matter of marriage. The Hindus are allowed to follow their customary beliefs, the Muslims are allowed to follow their laws in matters of marriage and inheritance. Then, what is the difficulty in allowing the Muslims in India to continue with their law of inheritance? They are a part and parcel of our society. They are here in this country for centuries together.

Indian society has a variety of cultures that includes the Hindus, the Muslims, the Sikhs and the Christians. What is the difficulty in allowing the Hindus, the Muslims, the Sikhs and the Christians to follow their personal laws in matters of inheritance, in matters of succession and in matters of marriage? There is no difficulty in it. They have their own laws, we have our own laws and we follow our respective laws. But the law is administered through a uniform procedure, that is civil procedure and criminal procedure in the law of evidence. But it is uniform. But there is diversity in matters of personal things. So, in the legal parlance and in the application of Indian law, there is uniformity. There is uniform civil code in matter of basic procedure and there is diversity in the matter of administration of personal law. But that would not affect the entire society. We would have to tolerate everybody. We are living in a parliamentary democracy. Tolerance is the essence of parliamentary democracy and we cannot proceed without this.

So, I would like to request my learned friend, Yogi Aditya Nath, in the interest of the nation, to avoid further controversy and tension, especially at this stage and he should not press for this Bill. It would do no good. I can understand if it had done something good. But it will do no good other than creating an atmosphere of apprehension amongst the minority community. That is the purpose for which this Bill has been brought forward.

So, I would request the hon. Member to withdraw his Amendment Bill in the interest of the Indian society and its unity. Let them have their own Personal Law. Let them marry according to their will. We do not accept the position as given in the Amendment Bill. Especially in view of the tensions created in the backdrop of Gujarat elections, we request the hon. Member not to press for his Amendment and withdraw it with the leave of the House.

श्री थावरचन्द गेहलोत (शाजापुर) : सभापति महोदय, मेरे साथी, सहयोगी श्री आदित्य नाथ ने जो संविधान संशोधन प्रस्तुत किया है, मैं उसका समर्थन करने के लिए खड़ा हुआ हूं। पहले भी और आज भी अनेक सदस्यों ने अपने विचार व्यक्त किए और सामान्यतः विरोधी पक्ष के सदस्यों ने यह दर्शाया कि इस संशोधन विधेयक की आवश्यकता नहीं है और संविधान में संशोधन नहीं होना चाहिए। मेरी अपनी मान्यता है कि यह संशोधन उपयुक्त है और इस प्रकार का संशोधन देश हित में आवश्यक है क्योंकि आपने और हमने भारत का संविधान पढ़ा है। संविधान निर्माताओं ने अनुच्छेद 44 में स्पट उल्लेख किया था कि भारत में समान नागरिक कानून संहिता की

आवश्यकता है। योग-संयोग, छद्म राजनीतिक कारणों से, वोट की राजनीति के कारणों से अनुच्छेद 44 पर अमल नहीं किया गया।

मैं इस अवसर पर एक बात और कहना चाहता हूं कि संविधान के अनुच्छेद 48 में गोवंश की रक्षा का दायित्व भी सरकारों के ऊपर छोड़ा गया था और यह अपेक्षा की गई कि गोवंश की हत्या पर रोक लगाने का काम सरकार करे। जब संविधान निर्माताओं ने संविधान बनाया था, उसमें हिन्दू, मुसलमान, सिख और ईसाई सब थे। सामान्यतः सामने बैठे हुए राजनीतिक दल के प्रमुख लोग भी उसमें थे। उन्होंने देश की आवश्यकता को महसूस करके, इस देश में अमन-चैन का वातावरण बना रहे, बन जाए, किसी प्रकार की कोई कटुता नहीं हो और देश तेज गति से विकास करे, इन भावनाओं के साथ अनुच्छेद 44 और 48 का प्रावधान भारत के संविधान में किया गया, किन्तु आज तक उन पर अमल करने की कार्यवाही नहीं की गई और जो इस पर अमल करने की बात करते हैं, उनको साम्प्रदायिक करार देकर उसका िवरोध किया और उसका परिणाम यह निकला कि आज सारे देश में कटुता का वातावरण है।

मैंने मुस्लिम लॉ पढ़ा है, हिन्दू मैरिज एक्ट पढ़ा है, आई.पी.सी. को भी पढ़ा है। मुस्लिम लॉ में भी स्पट लिखा है कि एक ही शादी की जाएगी, एक ही शादी करनी चाहिए। हजार वर्ा पहले कोई एक घटनाक्रम हुआ था। एक युद्ध हुआ था, जिसमें बहुत सारे मुस्लिम योद्धा मारे गए और उनकी पत्नियां विधवा हो गईं। तब कुछ बुद्धिजीवियों ने विचार किया कि आखिर जो विधवाएं हो गई हैं, उनका लालन-पालन या भरण-पोाण कैसे होगा। उस पर विचार-विमर्श हुआ और उसके बाद यह तय किया गया कि हालांकि शरियत और इस्लाम में यह स्पट है कि एक व्यक्ति को एक ही शादी करनी चाहिए परन्तु फिर भी जो शादी-शुदा व्यक्ति है, वह अपनी पत्नी से सहमति लेकर, जो विधवाएं हो गई हैं, उन विधवाओं को अपने घर ले जाकर उनके भरण-पोाण या लालन-पालन की व्यवस्था कर सकेगा, काम कर सकेगा। परन्तु ऐसा करते समय उसकी पहले जो शादी हुई है और जो पत्नी उसके साथ है, उसका वही मान-सम्मान होगा जो पत्नी के रूप में होना चाहिए। परन्तु देखा यह जा रहा है कि वर्तमान समय में और देश की आजादी के बाद स्वार्थवश इस नियम की व्याख्या गलत तरीके से की गई।

अभी मैं माननीय शिवराज पाटिल साहब का भााण सुन रहा था, उन्होंने कहा कि सामाजिक कानून हमारे यहां समान बने हुए हैं। मैं उन्हें याद दिलाना चाहूंगा कि मैं हिन्दू हूं, मैंने एक शादी कर रखी है और दूसरी शादी अगर मैं कर लूं तो मेरे ऊपर भरण-पोाण का प्रकरण चल सकता है और भरण-पोाण के प्रकरण के साथ धारा 494 का प्रकरण भी चल सकता है। उस धारा 494 के प्रकरण में मुझे सात साल की सजा हो जायेगी। लेकिन यदि कोई मुस्लिम व्यक्ति एक के बजाय दो, तीन या चार शादियां कर लें तो उसके ऊपर धारा 494 लागू नहीं होगी। यह अन्तर है कि नहीं है? हिन्दुस्तान में रहने वाला एक व्यक्ति दूसरी शादी करे तो धारा 494 लग जायेगी और उसमें सजा का प्रावधान सात साल का है और अगर मुस्लिम होगा तो उस पर धारा 125 भी लागू नहीं होगी।

मुझे मालूम है, मैं मध्य प्रदेश से आता हूं और मध्य प्रदेश में इन्दौर एक बहुत बड़ा शहर है, वहां की शाहबानो नाम की एक शादीशुदा महिला थी। उसके पति ने उसकी इच्छा के विपरीत दूसरी शादी कर ली तो उस महिला को अर्थात शाहबानो ने कानूनी प्रावधान होने के कारण आई.पी.सी. की धारा 125 के अन्तर्गत कोर्ट से न्याय प्राप्त करने के लिए दावा लगाया। एक कोर्ट ने उसके पक्ष में फैसला दे दिया तो सामने वाला पक्ष अपील में आया। हाई कोर्ट ने भी उसके पक्ष में फैसला दे दिया तो फिर सामने वाला पक्ष सुप्रीम कोर्ट में गया। सुप्रीम कोर्ट ने भी शाहबानो के पक्ष में फैसला दे दिया। उसने अपने फैसले में यह कहा कि आई.पी.सी. की धारा 125 यह कहती है कि इसकी इच्छा के विपरीत अगर कोई दूसरी शादी करता है तो जिसने दूसरी शादी की है, उसका दायित्व बनता है कि वह इसके भरण-पोाण के लिए आर्थिक मदद करे और धनराशि दे। कोर्ट ने जो पैसा देना चाहिए, उतना देने का आदेश भी दिया था, शायद 500 रुपये प्रतिमाह या जो भी धनराशि देने का प्रावधान किया था, कोर्ट ने आदेश देकर वह किया। लेकिन इस देश का दुर्भाग्य है, जहां तक मुझे याद है, राजीव गांधी जी उस समय देश के प्रधानमंत्री थे। इस विाय से उनमें हड़बड़ाहट मच गई, घबराहट मच गई कि सारे देश का मुस्लिम, जो वोट बैंक के रूप में उपयोग आता रहा है, कहीं वह नाराज न हो जाये। इसलिए आई.पी.सी. की उस धारा 125 में पिछली तारीख से संशोधन कर दिया। पिछली तारीख से संशोधन सामान्यतया नहीं होते हैं। दो बार ही ऐसे उदाहरण हमें देखने को मिले हैं। एक तो स्वर्गीय श्रीमती इन्दिरा गांधी को चुनाव के अयोग्य करार दिया था, इलाहाबाद हाई कोर्ट ने अनियमितता और भ्रटाचार के आरोप सिद्ध होने पर उनको चुनाव के अयोग्य करार करके उनको पद से हटाने का निर्णय दिया था तो अपना पद बचाये रखने के लिए उन्होंने पिछली तारीख से संशोधन कर दिया कि देश के प्रधानमंत्री, राट्रपति, उप-राट्रपति और शायद लोक सभा के अध्यक्ष के खिलाफ किसी कोर्ट में किसी प्रकार का प्रकरण दर्ज नहीं किया जायेगा। एक तो पिछली तारीख से यह संशोधन हुआ था और एक शाहबानो के प्रकरण में संशोधन हुआ। उसे भरण-पोाण के जो सुप्रीम कोर्ट के आदेश थे, उससे वंचित करने का काम तत्कालीन सरकार ने किया था।

अगर कोई हिन्दू दूसरी शादी कर ले तो आज भी उसे भरण-पोाण स्वयं की जेब से देना पड़ता है लेकिन उसके बाद मुस्लिम वर्ग की महिलाओं को अगर भरण-पोाण देने की स्थिति आ जाये तो एक प्रावधान कर दिया कि यह देखा जायेगा कि उसके पति, जिसने दूसरी, तीसरी या चौथी शादी कर ली, वह पैसा देने में सक्षम है कि नहीं है और यदि वह सिद्ध हो जाता है, वह सिद्ध कर देता है कि मैं तो भरण-पोाण के लिए पैसा देने में सक्षम नहीं हूं तो फिर उसके परिवार में कोई सक्षम है कि नहीं है, यह देखा जायेगा और यदि उसके परिवार से सम्बन्धित लोग भी यह सिद्ध कर दें कि वे भरण-पोाण की धनराशि देने की स्थिति में नहीं हैं तो वक्फ बोर्ड से उसे भरण-पोाण की व्यवस्था करने का प्रावधान कर दिया। मैं याद दिलाना चाहता हूं कि वक्फ बोर्ड में जो पैसा देता है, वह आप और हम सब टैक्स के रूप में जो पैसा देते हैं, उस टैक्स का पैसा उसमें जाता है।

एक कहावत है कि करे कोई-भरे कोई। .....* यह कहावत भी हमारे यहां है। अपराध वह कर रहा है और पैसा हमारा जो सरकारी खजाने में, वक्फ बोर्ड में है, उसको दिया जा रहा है। ऐसा कानून बनाने का क्या मतलब है, कोई मतलब नहीं है।

सभापति महोदय : थावरचंद जी, आपने अभी जिस शब्द का प्रयोग किया, मैं समझता हूं उसको रिकार्ड में न लिया जाए तो अच्छा है। इसको जिस तरह से प्रयोग में लाया जाता है, यह शब्द ठीक नहीं है।

SHRI SHIVRAJ V. PATIL : Sir, I did not object to many of his statements. But if the House thinks that they can go on record, let them go on record. Otherwise, this is not the way to deal with the subject.

श्री थावरचन्द गेहलोत : सभापति महोदय, मैंने कहा कि यह एक कहावत है, हमारे पूर्वज कहा करते थे इसलिए कह दिया। अगर आप इसे उचित नहीं समझते तो निकाल दें, मैं सहमत हूं। आप कहें तो मैं उन शब्दों को वापस ले लेता हूं। मैंने संकोच में आकर कहा था कि करे कोई-भरे कोई और कहा कि एक कहावत और है, अगर यह असंसदीय है तो मैं स्वयं इसे वापस लेने के लिए तैयार हूं।

* Not Recorded

इस प्रकार की स्थिति किसने बनाई, इस प्रकार की स्थिति को जब देशवासी देखते हैं तो उनमें एक-दूसरे के प्रति समरसता का जो वातावरण बनना चाहिए, वह नहीं बनता। मैं फिर कहना चाहता हूं कि जो छद्म राजनीति का दौर चला था, उसका ही परिणाम है कि यह कानून में भेदभाव हैं।

मेरे पूर्व वक्ताओं ने भी कहा है, मैं भी कहना चाहता हूं कि विश्व में अनेक देशों में सब प्रकार की जातियों के लोग रहते हैं। परंतु वहां आपराधिक दृटि से एक ही कानून है। हम जब मुस्लिम समाज के प्रमुख लोगों से, मौलाना साहब से, मौलवी साहब से या अमीन साहब से बात करते हैं तो उनसे कहते हैं कि हम जब शाहबानो के प्रकरण में एक से ज्यादा शादी करने की बात पर रोक लगाने की बात करते हैं तो आप कहते हैं कि यह शरीयत का उल्लंघन है और इस्लाम के खिलाफ है। हम

फिर कहते हैं कि आप एक बात बताओ कि आपकी शरीयत और इस्लाम कहता है कि चोरी करने वाले के हाथ काट दिए जाएं। इनके कानून में इसका प्रावधान है। अगर चोरी सिद्ध हो जाती है तो चोरी करने वाले अपराधी के हाथ काटने का प्रावधान शरीयत में है। इसी तरह से अगर कोई बलात्कार करता है तो उसे चौराहे पर कोड़े मारे जाते हैं या पत्थरों से मारा जाता है। अगर इस्लाम का अनुयायी किसी व्यक्ति की हत्या कर देता है और यह सिद्ध हो जाता है तो उसको चौराहे पर खड़ा किया जाता है। सरकारी अधिकारी और पुलिस का अमला भी वहां बैठते हैं। पब्लिक को भी आमंत्रित किया जाता है और उससे कहा जाता है कि इसको पत्थरों से तब तक मारो जब तक यह मर न जाए, इसकी सांस बंद न हो जाए। हम कहते हैं कि आपके यहां चोरी करने वाले को जो सजा हमें मिलती है, वही आपको यहां मिलती है, फिर क्या यह आपके इस्लाम के खिलाफ नहीं है। इस पर वे सीधे-सीधे जवाब देते हैं कि हिन्दुस्तान को हम अपना देश मानते हैं और हम यहां रहना चाहते हैं। हिन्दुस्तान का एक ही कानून होना चाहिए। हम तो सब करने के लिए तैयार हैं, परंतु राजनैतिक लोग इस बात से सहमत नहीं हैं। हमारे हाथों में सत्ता नहीं है, लेकिन जिनके हाथों में है, वे इस प्रकार का कानून बनाकर हमें मोहरा बनाकर हमारा उपयोग करते आ रहे हैं। हम तो आपकी बात से सहमत हैं और यह सब कहते हैं। कोई मुस्लिम धार्मिक जैसे मौलवी साहब हैं या मौलाना जी हैं, यह कहें कि शरीयत का और इस्लाम का कानून है कि चोरी करने वाले के हाथ काट दिए जाएं, बलात्कार करने वाले को कोड़े मारे जाएं और हत्या करने वाले को पत्थरों से मार-मार कर मारा जाए, क्या आप उससे सहमत होंगे ? मैं शिवराज पाटिल जी से पूछना चाहूंगा कि वे सर्व धर्म समभाव की बात कर रहे थे, क्या वे इस प्रकार का कानून लाने की बात करते हैं, जबकि हमारे देश के मुसलमान यह नहीं चाहते।

अभी वक्कल राधाकृणन जी बाबरी मस्जिद तोड़ने की बात कर रहे थे। मैं कहना चाहता हूं कि मुसलमानों में इस बात का कोई बहुत ज्यादा विरोध नहीं है। वे राम मंदिर बनाने के भी बहुत ज्यादा विरोधी नहीं हैं। विरोध अगर कहीं है और कोई कर रहा है, मैं नाम नहीं लेना चाहता, राजनीतिक दलों के लोग ही कर रहे हैं। वे इस प्रकार का वातावरण बनाकर देश के शांति के वातावरण को बिगाड़ना चाहते हैं। इस प्रकार का भेदभावपूर्ण वातावरण बनाकर, अनेक प्रकार के कानून रहते हुए क्या इस देश की एकता-अखंडता सुरक्षित रह सकती है। यह तो गनीमत है कि हम और आप सब बहुत ज्यादा प्रयास कर रहे हैं तो यह हो रहा है। जब देश की आजादी की लड़ाई लड़ी गई थी तो क्या कल्पना की गई थी। हिन्दू, मुस्लिम, सिख, ईसाई सबने देश की आजादी की लड़ाई लड़ी और अंग्रेजों के सामने गए। अंग्रेजी हुकूमत ने गोलियां चलाई, और उन्होंने गोलियां खा लीं।

18.00 hrs.

वे लोग देश की आन, बान और शान के लिए बलिदान हो गये। वन्दे मातरम का जो नारा लगाते थे, भारत माता की जय का जो नारा लगाते थे, जो पहले वाली सरकार थी और देश की आजादी के बाद लगातार 40-50 साल तक जिन्होंने राज किया, उनके राज में ऐसी स्थिति क्यों बन गई कि वन्दे मातरम शब्द साम्प्रदायिक हो गया? भारत माता की जय का नारा लगाना साम्प्रदायिक हो गया? वह किसी पार्टी विशेा के खाते में क्यों डाल दिया गया? क्या महात्मा गांधी जी ने वन्दे मातरम का नारा नहीं लगाया था? क्या नेहरू जी ने वन्दे मातरम का नारा नहीं लगाया था? मुझे याद है जब इस संबंध में सदन में वन्दे मातरम का गान गाने के बारे में चर्चा उठी तो उसका विरोध किया गया। कहा गया कि नहीं, संसद में वन्दे मातरम का गान नहीं होने देना चाहते। राट्रीय गीत होगा परंतु वन्दे मातरम नहीं होगा। क्यों?

भोपाल में भारतीय जनता पार्टी की ओर से अल्पसंख्यक मोर्चे का एक सम्मेलन हुआ था। उसमें मध्य प्रदेश के मुस्लिम समाज के बहुत सारे लोग आए और जब कार्यक्रम चैक आउट किया तो उसमें यह था कि वन्दे मातरम के साथ इस कार्यक्रम का शुभारम्भ होगा। मुस्लिम लोगों ने कहा कि वन्दे मातरम के साथ कार्यक्रम की शुरूआत करने से मामला ठीक नहीं होगा। उन्होंने कहा कि हमें मुस्लिम समाज में यह कहा जाएगा कि तुम गीता का पाठ कर रहे हो। हमने उन्हें समझाया। माननीय ठाकरे जी प्रदेश के उस समय वरिठ नेता और अध्यक्ष थे। उस समय आरिफ वेग भी थे। उन्होंने उन लोगों को समझाया कि वन्दे मातरम का अर्थ क्या है, यह आप लोग जानते हैं? उन्होंने बताया कि वन्दे का अर्थ वंदना करना है, नमस्ते करना, सलाम करना है और मातरम का अर्थ मातृभूमि। अर्थात् हे मातृभूमि, मैं तुम्हें सलाम करता हूं। जब हमने उनको समझाया कि हम आपसे कोई गीता का पाठ नहीं करवा रहे हैं, कोई रामायण नहीं पढ़वा रहे हैं। जब हमने बताया कि वन्दे मातरम का अर्थ यह है कि मातृभूमि, मैं तुम्हें सलाम करता हूं तो वे सर्हा तैयार हो गये और कार्यक्रम में किसी तरह का व्यवधान नहीं हुआ। क्या इस तरह का वातावरण बनाने की जिम्मेदारी तत्कालीन सरकार की नहीं थी? तत्कालीन सरकार ने जानबूझकर विद्वेा फैलाने का काम किया और विद्वेा फैलाने के बाद जो वातावरण बनाया, उसका परिणाम यह है कि आज इस प्रकार के संशोधन के लिए जब बिल लाये जाते हैं या विधेयक लाये जाते हैं तो विरोधी स्वर उठकर सामने आते हैं।â€¦ (व्यवधान) देश के संविधान निर्माताओं ने जो कल्पना की थी, उस कल्पना को साकार करने के मामले में तत्कालीन सरकारें खरी नहीं उतरीं।

आज गो-वंश की हत्या पर प्रतिबंध लगाने की बात संविधान के अनुच्छेद 48 में लिखी हुई है और उसके पीछे वैज्ञानिक आधार है कि अगर गो-वंश जीवित रहेगा और गो-वंश फलेगा-फूलेगा तो देश का विकास होगा परंतु इस लाइन पर चलने की बजाए जो दूसरे तौर-तरीके अपनाये गए और बूचड़खाने खोलकर गो-वंश की हत्या की जा रही है। आज हमारा यह कृाि प्रधान देश विश्व के अन्य देशों की तुलना में काफी पीछे है। विश्व में अनेक मुस्लिम राट्र हैं। इंडोनेशिया भी उसमें से एक है और मेरी जानकारी के अनुसार जितने भी मुस्लिम राट्र 39 या 40 हैं, उन सबमें अगर सबसे ज्यादा मुस्लिम समाज की जनसंख्या कहीं है तो वह इंडोनेशिया में है परंतु वहां की संस्कृति कैसी है-- वहां की एयरलाइन्स का नाम क्या है--गरुड़ एयरलाइन्स। वहां के टॉकीजों के नाम क्या हैं-- रामाकृणा टॉकीज। हमारे यहां इस प्रकार का कुछ हो जाए तो साम्प्रदायिकता दिखाई देने लगती है। â€¦ (व्यवधान)

सभापति महोदय : कृपया समाप्त करिए।

श्री थावरचन्द गेहलोत : अभी तो समय है। मैं यह कह रहा था कि वहां इस प्रकार का वातावरण है। हमारे यहां भी इस प्रकार का वातावरण बनाया जा सकता है।â€¦ (व्यवधान)

सभापति महोदय : अभी मंत्री जी को जवाब देना है तथा एक और सदस्य बोलेंगे। घंटा वैसे ही हो जाएगा।

श्री थावरचन्द गेहलोत : जनसंख्या निरंतर बढ़ती जा रही है और जनसंख्या पर रोक लाने के लिए अगर कोई कानून बनाने की बात आती है कि इस देश में एक परिवार में दो से ज्यादा बच्चे पैदा नहीं होने चाहिए। हमारे पड़ौसी देश चीन ने जनसंख्या वृद्धि दर को काफी सीमित कर दिया। हमारे यहां उसकी तुलना में जो कमी आनी चाहिए, वह नहीं आ रही है। उन्होंने कानून बना दिया कि एक परिवार में एक ही बच्चा होगा और एक से ज्यादा हो गया तो उसकी सम्पत्ति कुर्क कर ली जाएगी। ऐसे लोगों को जेलों में ठूंस दिया जाएगा।

इस प्रकार की स्थिति वहां निर्मित कर दी और यह स्थिति हमारे यहां नहीं है। हम पांच-पांच शांदियां करके, हम पांच और हमारे पच्चीस । इस प्रकार की भावना को कौन रोकेगा? इस प्रकार की भावना को हम नहीं रोकेंगे, यह सदन रोकने का प्रयास नहीं करेगा, तो कौन करेगा। हर समाज में, हर धर्म में धर्मान्ध लोग होते है, अति वादी लोग होते हैं और हम सब लोग यहां जनप्रतिनिधि के रूप में यहां आए हैं और जनप्रतिनिधि का यह दायित्व होता है कि देश में जो गड़बड़ियां हो रही हैं, उनको ठीक करने का प्रयास करें। मैं इस अवसर पर एक बात और कहना चाहता हूं। हमारे पूर्वजों ने हिन्दू धर्म और हिन्दू संस्कृति में समय-समय पर खामियों को दूर करने के लिए काम किया है। आज के समय में हम और आप मिलकर इसको ठीक करने का काम करें। मैं भी श्री खारबेला स्वाइं जी की तरह अनेक समाज सुधारकों के नाम ले सकता है, जैसे बालगंगाधर तिलक, राजा राममोहन राय आदि । समाज से सति प्रथा को भी रोकने का काम किया गया। इसलिए इस अवसर पर मैं कहना चाहता हूं कि इस विधेयक को पास तो होना ही चाहिए और इस देश में सर्वधर्म सम्भाव का वातावरण बनाने का प्रयास करना चाहिए। एक समान कानून बनाने की भा वना का मैं समर्थन करता हूं।

इन शब्दों के साथ मैं अपनी बात समाप्त करता हूं और आपको धन्यवाद देता हूं कि आपने मुझे बोलने के लिए समय दिया।

SHRI K. FRANCIS GEORGE (IDUKKI): Sir, the Private Member's Bill that has been brought about by hon. Member, Shri Aditya Nath to make uniform civil laws in our country, I think, is ill-timed and ill-conceived. As many of our honourable elder Members have pointed out, what is the necessity and urgency in bringing about a law like this, especially at this juncture as we all know the current situation that is prevailing in this country? What message is it going to send to the minorities of this country?

We are having democracy. The essence of democracy, the federal structure, is pluralism and freedom of the individual to profess and practise any faith and any religion that he intends to. My friends from the other side have been citing the practices that are prevailing in various other countries. I would like to remind them that ours is a democratic country. In a democracy like ours with 100 crore people professing various faiths, various cultures, various languages, various traditions, it would not be right and proper to slap a uniform civil code which is going to override all our personal laws which are in existence in our country. If at all there are shortcomings in the personal laws of various communities, those shortcomings have to be addressed to and rectified by those communities themselves instead of the Government coming with a uniform civil code and imposing it on various sections of our country.

Sir, the founding fathers did not mean a uniform civil code should be adopted compulsorily within a certain period of time. It is very clearly mentioned in the Constitution that we shall endeavour and try to have a uniform civil code. There are several other provisions like this in the Constitution too. The founding fathers also had incorporated in our Constitution that we must have or we shall have a uniform national language within a certain period of time.

Even after fifty-five years of our freedom, we still have not implemented that provision. That is exactly because we respect the sentiments of various sections of people living in various parts of our country. We are yet to adopt a national language. Of course, we have a national language. But we have not imposed it on all States of our country. We still have three-language formula. If we have taken that kind of a liberal approach on an issue like this, why not adopt the same approach as far as the civil law of this country is concerned? The hon. Member says that this amendment is intended to ensure unity, equality and social justice. As rightly pointed out by Shri Shivraj Patil, if the intention is to bring in unity through uniformity, well that may not happen. If what we want is unity in our country, then we should respect the sentiments and traditions of all the sections in our country. Many issues were raised here.

Of late, the hon. Home Minister had declared in this august House that India is never going to be a Hindu *Rashtra.* That is a correct stand and a right stand. But he was attacked for it. I do not know what he has said. I was not present here at that time. If the hon. Home Minister had taken that kind of a stand that our country is not going to be a theocratic State, then it is a right stand. But even for that he was attacked.

The hon. Member in this Bill says that ours is not a theocratic State. That is right. None of us want that it should be a theocratic State. We want our country to remain as a democracy, respecting individual rights and individual freedom, respecting freedom of the people to profess and practice their faith and letting them live according to the respective personal laws. Probably this House must have debated this issue several times before. This particular issue has been debated in the country several times. But all the time the decision was to keep the respective personal laws intact and to give fair play to the various communities that are there in this country. The decision was always to respect their sentiments and to respect their personal laws. If at all corrective steps are required, let them come from the respective communities, instead of the Government -- whichever Government it may be -- coming forward with a uniform law. So, that is the practice all over the world in democracies. Since our country is a democracy, and we take pride in saying that ours is a democracy, we should stick to the democratic principles of respecting the sentiments of others and the sentiments of our brethren who belong to various sections and various communities of our country.

So, if this particular amendment is accepted, it will cut at the very roots of the democratic structure of our country. It will go against the secular ethos and secular sentiments that are very highly valued by all sections in this country. So, I would very earnestly request the hon. Member, who is my good friend, to withdraw this Bill. I would request him to stand for democracy, stand for secularism, stand for individual rights and individual freedom.

सभापति महोदय : इस बिल के लिए छ: बज कर 14 मिनट तक का समय तय हुआ था। मैं सदन से अनुमति चाहूंगा कि इस पर आधे घंटे का समय और बढ़ा दिया जाए, बाद में समय बचेगा तो देखा जाएगा।

कई माननीय सदस्य : ठीक है।

THE MINISTER OF LAW AND JUSTICE (SHRI K. JANA KRISHNAMURTHY): Sir, may I make a suggestion? If I am not inconveniencing the Chair and the available hon. Members in this House now, I would suggest that it would be better if I am permitted to conclude a portion of my reply in another five minutes. For me, 6.20 p.m. is the outer limit to catch a flight. I can continue it next time, if you permit.

MR. CHAIRMAN : You can start now and continue later on. I would make it clear that the time is extended by half-an-hour for the Bill and not for the sitting of the House. The House will sit up to 6.20 p.m.

SHRI K. JANA KRISHNAMURTHY: Mr. Chairman, Sir, I have been carefully following the arguments that have been advanced by the mover of the Bill as well as by those hon. Members who were opposing the Bill. I was really

surprised as to how the question of moving an amendment to the Constitution on the lines of arguments advanced by the mover of the Bill irked others. It is a simple amendment for a civil law. Whether we agree with him or not is entirely a different thing. I can assure this House that ultimately, after whatever I want to place before this House on some of the arguments that have been advanced so far, my conclusion will be to request him to withdraw the Bill.

But, I cannot understand as to how the question of Hindu, Muslim, Christian, etc., has been brought into this argument. He just said that there should be a common civil code. It has not been suddenly sprung up in this House. Fifty years back, as the respected Deputy Leader of the Opposition has stated, this question was alive. They were all wise men. Then, why those wise men chose to include in the Directive Principles' portion that the Government of the day should endeavour to secure a common civil code? Were all those who advanced these arguments against the mover of the Bill not aware of it? The very fact that the wise men, namely, the founders and the fathers of our Constitution have chosen to include article 44 in the Directive Principles saying that the State shall endeavour to secure a common civil code goes to show that the framers of the Constitution also wanted that at sometime or the other, the country will have to move towards that and to secure it.

Therefore, when that is the case, I personally feel that the mover of the Bill has tried to get himself motivated with the same spirit and the intention which the Founding Fathers of the Constitution had.

सभापति महोदय : आप अपना भाण इस विाय पर निर्धारित अगली तारीख को जारी रख सकेंगे।

The House stands adjourned to meet on Monday, the 25th November, 2002 at 11 a.m.

18.19 hrs.

The Lok Sabha then adjourned till Eleven of the Clock

on Monday, the 25th November, 2002/Agrahayana 4, 1924 (saka).